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land for the purpose of placing it in the CRP; or

(3) If a tenant, the tenant is a participant with an eligible owner or operator.

(b) Notwithstanding paragraph (a) of this section, under continuous signup provisions authorized by §1410.30, an otherwise eligible person must have owned or operated, as appropriate, the eligible land for at least 12 months before submitting the offer.

§ 1410.6 Eligible land.

(a) In order to be eligible to be placed in the CRP, land must be one of the following:

(1) Cropland that is subject to a conservation plan and has been annually planted or considered planted, as defined in §1410.2, to an agricultural commodity in 4 of the 6 crop years from 1996 through 2001, as determined by the Deputy Administrator, provided further that field margins that are incidental to the planting of crops may also be considered qualifying cropland to the extent determined appropriate by the Deputy Administrator; and is physically and legally capable of being planted in a normal manner to an agricultural commodity, as determined by the Deputy Administrator; or

(2) Marginal pasture land, as determined by the Deputy Administrator, that:

(i) Is enrolled in the crop year or has been enrolled during any of the 2 years preceding the crop year in the WBP; and

(A) The WBP contract of the owner or operator of the cropland expired or will expire in calendar year 2000, 2001, or 2002; and

(B) The acreage is not classified as naturally occurring type 3 through 7 wetlands, as determined by the Deputy Administrator, regardless of whether the acreage is or is not protected by a Federal agency easement or mortgage restriction (types 3 through 7 wetlands that are normally artificially flooded shall not be precluded from eligibility), and;

(C) Enrollment in CRP would enhance the environmental benefits of the site, as determined by Deputy Administrator; or

(ii) Is determined to be suitable for use as a riparian buffer or is made eligible in a CREP for similar water quality purposes as determined by the Deputy Administrator. A field or portion of a field of marginal pasture land may be considered to be suitable for use as a riparian buffer only if, as determined CCC, it:

(A) Is located adjacent to permanent stream corridors excluding corridors that are considered gullies or sod waterways; and

(B) Is capable, when permanent grass, forbs, shrubs, or trees, are grown, or when planted with appropriate vegetation for the area, including vegetation suitable for wetland restoration or wildlife habitat, as determined appropriate by the Deputy Administrator, of substantially reducing sediment and/or nutrient runoff that otherwise would be delivered to the adjacent stream or waterbody or for water quality purposes; or

(3) Must be acreage enrolled in the CRP during the final year of the CRP contract provided the scheduled expiration date of the current CRP contract is before the effective date the new CRP contract, as determined by the Deputy Administrator.

(b) Land qualifying under paragraphs (a)(1) or (a) (2) of this section must also meet one of the following criteria, to be eligible for a contract:

(1) Be a field or portion of a field determined to be suitable for use, as determined by the Deputy Administrator, as a permanent wildlife habitat, filter strip, riparian buffer, contour grass strip, grass waterway, field windbreak, shelterbelt, living snowfence, other uses as determined by the Deputy Administrator, land devoted to vegetation on salinity producing areas, including any applicable recharge area, or any area determined eligible for CRP based on wetland or wellhead protection area criteria. A field or portion of a field may be considered to be suitable for use as a filter strip or riparian buffer only if it, as determined by CCC:

(i) Is located adjacent to a stream, other waterbody of a permanent nature (such as a lake, pond, or sinkhole), or wetland; excluding such areas as gullies or sod waterways; and

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(ii) Is capable, when permanent grass, forbs, shrubs or trees are grown, of substantially reducing sediment or nutrient runoff that otherwise would be delivered to the adjacent stream or waterbody;

(2) Be a field that has evidence of scour erosion caused by out-of-bank flows of water, as determined by CCC:

(i) In addition, such land must:

(A) Be expected to flood a minimum of once every 10 years; and

(B) Have evidence of scour erosion as a result of such flooding.

(ii) To the extent practicable, be the actual affected cropland areas of a field; however, the entire cropland area of an eligible field may be enrolled if:

(A) The size of the field is 9 acres or less; or

(B) More than one third of the cropland in the field is land that lies between the water source and the inland limit of the scour erosion.

(iii) Or, if the full field is not eligible for enrollment under this paragraph, be the cropland between the waterbody and inland limit of the scour erosion together with, as determined by the Deputy Administrator, additional areas that would otherwise be unmanageable and would be isolated by the eligible areas.

(iv) Be planted to an appropriate tree species according to the FOTG, unless tree planting is determined to be inappropriate by NRCS, in consultation with the Forest Service, in which case the eligible cropland shall be devoted to another acceptable permanent vegetative cover in accordance with the FOTG;

(3) Be cropland that would facilitate a net savings in groundwater or surface water of the agricultural operation of the producer as determined by CCC;

(4) Be cropland in a portion of a field not enrolled in the CRP, if more than 50 percent of the remainder of the field is enrolled as a buffer practice, if the portion of the field not enrolled in the CRP will be enrolled as part of the buffer practice, and if as determined by CCC:

(i) The remainder of the field is infeasible to farm; and

(ii) The remainder of the field is enrolled at an annual payment rate not

to exceed the maximum annual calculated soil rental rate;

(5) Be contributing to the degradation of water quality or posing an on-site or off-site environmental threat to water quality if such land remains in production;

(6) Be devoted to certain covers, as determined by the Deputy Administrator, that are established and maintained according to the FOTG, provided such acreage is not required to be maintained as such under any life-span obligations, as determined by the Deputy Administrator;

(7) Be non-irrigated or irrigated cropland that produces or serves as the recharge area, as determined by the Deputy Administrator, for saline seeps, or acreage that is functionally related to such saline seeps, or where a rising water table contributes to increased levels of salinity at or near the ground surface;

(8) Have an EI of greater than or equal to 8 calculated by using the weighted average of the EI's of soil map units within the field;

(9) Be within a public wellhead protection area;

(10) Be within a designated conservation priority area;

(11) Be designated as a cropped wetland and appropriate associated acreage, as determined by the Deputy Administrator;

(12) Be cropland that, as determined by the Deputy Administrator, is associated with noncropped wetlands and would provide significant environmental benefits; or

(13) Notwithstanding paragraph (a)(1) of this section, be cropland devoted to a perennial crop, as determined by CCC; such cropland will only be eligible for continuous signup practices authorized by § 1410.30 and CREP practices authorized by § 1410.50(b).

(c) Notwithstanding paragraphs (a) and (b) of this section, land shall be ineligible for enrollment if, as determined by the Deputy Administrator, land is:

(1) Federally-owned land unless the applicant has a lease for the contract period;

(2) Land on which the use of the land is restricted through deed or other restriction prior to enrollment in CRP

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prohibiting the production of agricultural commodities during any part of the contract term except for eligible land under paragraph (a)(2) and (3) of this section, as determined by CCC; or

(3) Land already enrolled in the CRP unless authorized by § 1410.6(a)(3), as determined by the Deputy Administrator.

[68 FR 24835, May 8, 2003, as amended at 69 FR 26763, May 14, 2004]

§ 1410.7 Duration of contracts.

(a) Except as provided in paragraphs (b) or (c) of this section, contracts under this part shall be for a term of 10 years.

(b) In the case of land devoted to riparian buffers, filter strips, restoration of wetlands, hardwood trees, shelterbelts, windbreaks, wildlife corridors, or other practices deemed appropriate by CCC under the original terms of a contract subject to this part or for land devoted to eligible practices under a contract modified under § 1410.10, the participant may specify the duration of the contract between 10 years and 15 years in length.

(c) All contracts shall expire on September 30 of the appropriate year.

§ 1410.8 Conservation priority areas.

(a) CCC may designate National conservation priority areas according to paragraph (c) of this section.

(b) Subject to CCC review, State FSA committees, in consultation with NRCS and the State Technical Committee, may designate conservation priority areas within guidelines established by the Deputy Administrator. Such designation must clearly define conservation and environmental objectives and provide analysis of how CRP can cost-effectively address such objectives. Generally, the total acreage of all conservation priority areas, in aggregate, shall not total more than 33 percent of the cropland in a State unless there are identified and documented extraordinary environmental needs, as determined by the Deputy Administrator.

(c) As determined by the Deputy Administrator, a region shall be eligible for designation as a priority area only if the region has actual significant adverse water quality, air quality, wild-

life habitat, or other natural resource impacts related to activities of agricultural production, or if the designation helps agricultural producers to comply with Federal and State environmental laws.

(d) Conservation priority area designations shall expire after 5 years unless re-designated, except they may be withdrawn:

(1) At the request of the appropriate State water quality agency; or

(2) By the Deputy Administrator.

(e) In those areas designated as conservation priority areas, under this section, cropland is considered eligible for enrollment according to § 1410.6(b)(10) based on identified environmental concerns. These concerns may include water quality, such as assisting agricultural producers to comply with nonpoint source pollution requirements, air quality, or wildlife habitat (especially for threatened and endangered species or those species that may become threatened and endangered), as determined by the Deputy Administrator.

§ 1410.9 Conversion to trees.

An owner or operator who has entered into a CRP contract prior to November 28, 1990, may elect to convert areas of highly erodible cropland, subject to such contract, that is devoted to permanent vegetative cover, from such cover to hardwood trees, (including alley cropping and riparian buffers of hardwood trees, where permitted by CCC), windbreaks, shelterbelts, or wildlife corridors.

(a) For any contract modified under this section, the participant may elect to extend such contract in accordance with the provisions of § 1410.7(b).

(b) For any contract modified under this section in which such areas are converted to windbreaks, shelterbelts, or wildlife corridors, the owner must agree to maintain such plantings for a time period established by the Deputy Administrator at the time of the contract modification.

(c) CCC shall, as it determines appropriate, pay up to 50 percent of the eligible cost of establishing new conservation measures authorized under this section, except that the total cost-